TACD

TRANS ATLANTIC CONSUMER DIALOGUE

DIALOGUE TRANSATLANTIQUE DES CONSOMMATEURS

TACD Comments on the Creation of a EU-US Innovation Dialogue

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1. Introduction

The Transatlantic Consumer Dialogue is pleased to see the creation of a EU-US Innovation Dialogue and to have the opportunity to provide input at this early stage.

Strategic cooperation on innovation is important for the fulfilment of societal needs and goals, to stimulate economic development and job creation and to enhance competitiveness. However, innovation should not be a goal in itself since some innovations can prove to be destructive. For example, U.S. presidential advisor and former Federal Reserve Bank Chairman Paul Volker has said that “there not a shred of neutral evidence” that the financial “innovations” of the past decade have contributed to sustainable economic growth. Through the Innovation Dialogue, the Governments of the EU and US must seek to promote innovation that delivers for both innovators and consumers.

The dialogue should engage on strategic issues that facilitate a culture of beneficial and positive innovation that benefits all segments of society:

- A balanced and not overly restrictive intellectual property regime
- Strong and well-enforced competition policy
- Open and interoperable standards
- Strong consumer protection
- The development of a transatlantic office of technology assessment

The dialogue also has a role to play in overseeing issues currently under discussion in other fora that relate to innovation, although care will have to be taken to ensure that work is not duplicated. In this respect, it is extremely important that a mapping exercise is conducted that sets out all innovation-related dialogues and provides clear demarcation between topics that will be covered by the Innovation Dialogue and those that will fall outside it. Specific issues that could be covered include:

- The development and deployment of clean and efficient technologies
- Consumer considerations in the development of new technologies (for example, nanotechnologies, Cloning, GMO)
- The development of privacy enabling technologies
- Software interoperability and open standards
- Research and development for essential medicines

2. Delivering Innovation for Consumers

Intellectual Property

Intellectual property is often presented as the panacea for the promotion of creativity and innovation, based on the sophism that more intellectual property protection equals more innovation.

To truly address the issue of innovation either from a societal or economic perspective, it is important to avoid basing innovation policy on IP ideology and recognise that while intellectual property can and does provide incentives, excessive IP protections and enforcement can often act as barriers to innovation. Rigid IP, sometimes referred to by scholars as “patent pathology,” locks up the very information that serves as the building blocks for future innovators. We have seen this innovation impediment in the development of software and new digital services, amongst other areas. In addition, strong IP has not solved the problem of stimulating innovation in areas where needs exist but where markets are not sufficiently lucrative. This market failure has been the tragic case for research and development into medicines that treat diseases such as tuberculosis and HIV. An Innovation Dialogue could look at fostering alternatives to intellectual property protection, such as prize funds and other methods.

Competition

Strong and well-enforced competition policy is one of the best mechanisms for stimulating innovation. The EU and US should work closely to eliminate anti-competitive practices and the development of monopolies. There have been some positive signs in the EU such as the recent Internet browser case. But this case will benefit EU consumers alone. In 2000, Mario Monti, the EU Commissioner for competition policy proposed a discussion within the Organization for Economic Cooperation and Development of multilateral rules to prevent anti-competitive business practices. The United States then judged the proposal to be “premature.” The Innovation Dialogue should form a working group on competition policy both to foster innovation and to prevent anti-completive business practices from impeding innovation.

Open and Interoperable Standards

Consumer organizations clearly see interoperability as an important means to achieve consumer welfare and innovation in sectors such as information and communication technologies. Consumer and innovators rely heavily on the ability to exchange data between different types of software, and from one person to another, but also on the ability to understand that information so that it can be used. Standardization and Open Standards can be useful tools to achieve interoperability.

There does not appear to be a clear policy approach on the part of the EU and US governments to promote interoperability in order to improve consumer welfare. Instead, efforts to develop interoperability tend to be left to market players. While this may be a valid policy approach in some emerging services, it requires rigorous and ongoing assessment to determine whether the market has delivered the necessary interoperable environment to serve the needs of consumers and the social welfare.

Consumer Protection and Empowerment

Strong consumer protection is an important prerequisite in order for innovation to thrive. Consumers must be able to trust new technologies and be assured that innovative products and services are developed with sufficient regard to their health, safety and preferences.

Consumer acceptance of new technologies will not happen with discussion alone. Transparency and openness are key as well as the development of necessary regulatory measures.

A transatlantic center for technology assessment

Governments are major investors in platform technologies from which commercial applications are derived. Consumers, as taxpayers, contribute to those investments but have played no role in decisions made about technological pathways and government technology investment priorities. Following the dissolution of the U.S. Office for Technology Assessment in 1995, there has not been a federal pre-marketing technology assessment framework beyond the narrow confines of risk assessment, which is most often applied post-marketing. Given that major corporate innovators operate transatlantically, TACD believes that the Innovation Dialogue should review current best practices in technology assessment towards developing a project for a transatlantic center for technology assessment.

Such a center would have a consumer stakeholder component for input to prioritize public technology investments and to comment on public-private partnerships in product development from publicly funded technology platforms. Early input and consultation could assist in identifying technical, regulatory, economic and social problems prior to regulated or unregulated commercialization of novel technologies and products. For example, the technology assessment center could advise U.S. and EU agencies on alternative pathways for minimizing risks to consumer health that may arise from incorporating engineered nano-particles in foods or food packaging materials. Beyond risk assessment, such a center could review alternative technologies for achieving socially optimal products, rather than simply having governments invest in whatever industry seeks to develop.

3. Cooperation on Specific Areas

Nanotechnologies

Nanotechnologies provide great promise as an enabling technology. It has a variety of uses from clothing to food products. However, there is still a great deal of uncertainty about the risks involved. The Innovation Dialogue should:

- Contribute towards increased transparency and public dialogue about key developments so that there is a clearer understanding of potential benefits and risks with this technology
- Undertake joint efforts to address key research gaps e.g. how nanomaterials behave in the gut
- Develop common, robust approaches to risk assessment

- Collaborate on the establishment of mandatory reporting schemes to keep track of the introduction into the marketplace of manufactured nanomaterials
- Establish an extensive inventory of all current and future nanomaterials used in products on the market. This inventory would have to be made publicly available.

Privacy Enhancing Technologies

As the world becomes digital and consumers part with personal data, either knowingly or unknowingly, on an increasingly frequent basis, whether through e-commerce, social networking or travel, the need to ensure privacy and data protection is becoming ever more important. Privacy considerations need to be addressed at the very inception of new products and services rather than in a reactive manner once they have already entered the market. Given the problems with enforcement of privacy in the online and digital environment, the Innovation Dialogue should include cooperation on the development and deployment of privacy enhancing technologies that would stimulate the sharing of best practice in this area and provide strategic leadership on improving compliance in the areas of privacy and data protection. These considerations must also be central to any discussions on e-health.

Energy Efficient Technologies

The Innovation Dialogue should explore ways of promoting and harnessing energy efficient technologies. In doing so cooperation should focus on both production and consumption-driven solutions.

In particular, the Innovation Dialogue should:

- Facilitate a joint approach to the funding of research into energy saving technologies
- Facilitate cooperation on the development of ambitious energy efficiency and eco-design standards
- Share best practice and research regarding the use of policies and incentives to promote change in consumer behaviour
- Exchange best practices on how to connect effectively with consumers, learning from branding, psychology, communications and social marketing to engage with them more effectively on the up-take of energy efficient technologies
- Undertake coordinated work on facilitating consumer up-take through consumer information policies such as labelling
- Engage in cooperation regarding the use of public procurement to stimulate green innovation

Innovation in food

Innovations in food need to be given careful attention. Innovations should have clear public benefits.

Areas that the Innovation Dialogue could address are:

- Sharing expertise around innovative product reformulation (reducing salt, saturated fat, sugar) to benefit health without affecting product taste or impacting on safety
- In the areas of cloning and Genetically Modified Organisms, the Innovation Dialogue could help to provide transparency on current developments, ensuring safety, work to develop meaningful approval and traceability systems and engage further with consumers

Medical Research and Development

Cooperation on innovation policy should address health needs driven research and development. For diseases such as tuberculosis, malaria and HIV/AIDS, innovation policies centered on financial incentives provided by intellectual property rights have not been effective in delivering medicines, vaccines, diagnostic kits and other healthcare products.

As well as ensuring the availability of and access to publicly funded research and development, the EU and US should initiate discussions on alternative mechanisms for stimulating innovation such as the use of prize funds. The Innovation Dialogue would be a good forum for this.